

SECTION D
DEVELOPMENT TO BE CARRIED OUT BY THE COUNTY COUNCIL

Background Documents: the deposited documents; views and representations received as referred to in the reports and included in the development proposals dossier for each case; and other documents as might be additionally indicated.

Item D1

Application for construction of a service road route for HGV and other vehicle deliveries with concrete apron, associated lighting, fencing, and landscaping, re-siting of part of the existing barn, and the relocation of 2no. storage containers

A report by Head of Planning Applications Group to Planning Applications Committee on 9 February 2022.

Application by Kent County Council for construction of a service road route for HGV and other vehicle deliveries with concrete apron, associated lighting, fencing, and landscaping, re-siting of part of the existing barn, and the relocation of 2no. storage containers at Newnham Court Farm, Bearsted Road, Weaving, Maidstone, Kent ME14 5LH - KCC/MA/0168/2021 (MA/21/504154)

Recommendation: Permission be granted subject to conditions

Local Member: Sir Paul Carter Maidstone Rural North

Classification: Unrestricted

Site

1. The application site is located at Newnham Court Farm, to the north east of Newnham Court Shopping Village and to the south west of Kent Institute of Medicine and Surgery (KIMS) and west of Newnham Court Way.
2. The site is located approximately 2.8km north east of Maidstone Town Centre. It is located to the south of the M20 and junction 7, connecting the A249 to Bearsted Road.
3. Newnham Court Inn, a listed building is located at the Newnham Court Shopping Village and is approximately 71m to the south west of the proposal. The nearest residential property is located at Newnham Court the boundary of which lies approximately 24m away and the facade of which lies approximately 66m to the north of the proposal. The KIMS site is approximately 100m to the north east.
4. The application site is within the Maidstone Urban Area and sits approximately 290m to the south of the Kent Downs AONB, and is separated by the M20. Ancient woodland which is also a Local Wildlife Site is located approximately 180m to the north and east of the site at Horish Wood and at Popes Wood, and a Local Nature Reserve approximately 290m to the south west of the site at Vinters Valley Park which contains Lower Fullingpits Wood, also ancient woodland. A Site of Special Scientific Interest (SSSI) and Special Area of Conservation (SAC) is located approximately 1580m to the north of the site at Pilgrims Way. The application site sits within a Tree Preservation Area known as "Trees on Land North of Bearsted Road, Boxley".

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5. The planning application site sits within an area known as Newnham Park within the Local Plan mixed retail and medical uses allocation RMX1(1). The site lies within a Mineral Safeguarded Area.
6. Please see Appendix 1 for site location plans.

Background / Recent Site History

7. This proposal forms part of the programme of wider highway improvement scheme works, known as the Bearsted Road Capacity Improvement Scheme. The Scheme as a whole is aimed at reducing congestion by improving junction and link capacity, and the applicant states that this objective is assisted by removing the current access to Newnham Court Village and relocating it to a new access and link road off Newnham Court Way. It is also aimed at creating capacity for the Newnham Park site which is allocated for a medical campus of up to 100,000m², a replacement retail centre of up to 14,300m², and a nature reserve. The Improvement Scheme includes works that can be carried out by Kent County Council as Highways Authority under permitted development rights and works subject to planning permission MA/20/500047 for the construction of a new access road into Newnham Court Shopping Village. The permitted works include an internal service road, car parking, site compound area, installation and relocation of lighting columns, modification of the existing access into the shopping village, realignment of the existing drainage feature, removal and replacement tree planting, associated earthworks and landscape improvements.
8. The MA/20/500047 application originally included a section of proposed HGV service route to the north of the site however this section was withdrawn from the proposal in October 2020 and permission was granted by the County Council on 18 November 2020 for the new access road into Newnham Court Shopping Village without provision for the northern section of a HGV service route. The permitted scheme included a new access road into the Shopping Village and a new service road to the east of the Village and at the time that the northern section of HGV route was withdrawn from the proposal, it had been the applicant's intention to proceed with an application for the HGV service route at a later date. Works have not yet begun under the MA/20/500047 development. The applicant proposes that should permission be granted for this application before Members, the works would occur as part of the main highway improvement project and the MA/20/500047 development.
9. In April 2021, the County Council as the Planning Authority received an application for construction of the northern (previously withdrawn) section of the service road route for HGV and other vehicle deliveries, and concrete apron, with associated landscaping, lighting, and fencing at Newnham Court Farm (KCC/MA/0086/2021). This was withdrawn by the applicant in July 2021 as a result of amendments to the proposal and the current application KCC/MA/0168/2021 was then submitted shortly after.
10. This planning application seeks to provide a HGV service route as the HGV service route was removed from the MA/20/500047 application. It also seeks to relocate 2 containers (which would need to be moved from their existing locations south west of the existing field gate and south east of the existing concrete pad to a new location in order for the proposed HGV route and concrete apron to be constructed) and part of an existing barn located north east of the existing field gate (which would need to be moved to enable proposed fence and landscape work) and provide a proposed concrete apron

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on an area of the site that is currently covered in an unbound type 1 surface material. The proposed concrete apron would adjoin an existing concrete slab at the Newnham Court Shopping Village in order to achieve a turning circle swept path on both the concrete apron and concrete slab. The existing concrete slab is to the north of the Gymfinity building and approximately 10m from the boundary of residential property at Newnham Court and is not within the planning application area for this proposal, being to the north of this proposal and adjacent to the proposed concrete apron.

11. The existing concrete slab site (referred to in paragraph 10 above) was the subject of an application for a lawful development certificate of the existing use (ref: 21/500139/LDCEX) made by Kent County Council to Maidstone Borough Council (MBC) as the relevant Local Planning Authority on 28 January 2021. MBC issued a Certificate of Lawfulness for 'the turning of delivery vehicles and for the loading and unloading of goods being delivered to premises at the Newnham Court Shopping Village' on 31 March 2021. The Certificate states that the reason for approval is that "it has been demonstrated on the balance of probability that, the use of the land for the turning of delivery vehicles and for the loading and unloading of goods being delivered to premises at the Newnham Court Shopping Village, have been carried out for a period in excess 10 years prior to the submission of the application and are lawful within the terms of Section 171B(3) and 191(2)(a) of the Town and Country Planning Act 1990 (as amended).
12. The existing concrete slab has also recently been the subject of a planning application reference 21/503982/FULL to MBC seeking planning permission for the retention of the concrete slab. Planning consent for its retention has been granted.

MBC Planning History

13. A number of planning permissions have been granted by MBC relating to the Shopping Village and the Units within it, and to Newnham Park, including in relation to the Medical Campus. The following more recent decisions **granting** permission by MBC are of most relevance to the proposed site and surrounding area:

21/503982 granted - Retrospective application for retention of existing concrete slab hardstanding area.

21/50139/LDEX Lawful Development Certificate (Existing) granted to establish the lawfulness of the existing use for 'the turning of delivery vehicles and for the loading and unloading of goods being delivered to premises at the Newnham Court Shopping Village'.

20/502037/REM granted - Kent Medical Campus Newnham Way Reserved Matters of appearance, landscaping, layout and scale of temporary car park pursuant to outline application 16/507292/OUT as varied by 18/506609/OUT

19/503859/FULL – granted creation of an outdoor children's play area, plant compound and bin store to rear of existing children's gymnastics centre. Units 30 & 32 Newnham Court Shopping Village Bearsted Road

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18/503459/FULL granted - Newnham Park Bearsted Road. Extension to the existing car park to provide an additional 87 No. parking spaces with landscaping.

18/506609/OUT granted - application to vary conditions 3, 4, and 5 of planning permission 16/507292/OUT (outline application with access sought for development of medical campus) to allow for the relocation of the Nature Reserve.

18/506658/REM granted - Reserved Matters of appearance, landscaping, layout and scale pursuant to outline application 16/507292/OUT (outline application with access sought for development of medical campus) for construction of proposed four storey Innovation Centre office building (Class B1) and associated external works.

18/500330/FULL- granted. Refurbishment and extension of existing garden centre buildings, including the enclosure of 2570m² GIA of existing external retail floor space to become internal retail floor space and ancillary cafe, amendments to the elevations and roof of existing buildings including installation of new cladding and roofing materials to existing glasshouses, reconfiguration of existing overflow car park, associated landscaping, and continued use of part of the site for external retail display.

16/507292/OUT – granted. Newnham Park Bearsted Road - Outline Application with access matters sought for development of medical campus comprising up to 92,379 m² of additional floorspace (including additional hospital facilities, clinics, consultation rooms and a rehabilitation centre (classes C2/D1); education and training facilities with residential accommodation (class C2/D1); keyworker accommodation for nurses and doctors (class C3); pathology laboratories (class B1); business uses (class B1); ancillary retail services (class A1, A2, A3); and up to 116 bed class C2 neuro-rehabilitation accommodation; internal roads and car parks, including car park for residents of Gidds Pond Cottages; hard and soft landscaping including creation of a nature reserve (to renew existing consent 13/1163).

14/502439/FULL granted- Land North Of Newnham Court Shopping Village Bearsted Road - Proposed car park for KIMS staff, together with associated landscaping.

Proposal

14. The proposal is for the construction of a service road route for HGV and other vehicle deliveries with concrete apron, associated lighting, fencing, and landscaping, re-siting of part of the existing barn, and the relocation of 2no. storage containers. The proposal would provide a connection from the new service road (when built) allowed by permission reference MA/20/500047 and run to the east of the existing hedgerow and connect back into the Shopping Village at the north east of the Gymfinity Kids warehouse building, via a proposed concrete apron which would adjoin the existing concrete slab located to the north east of the Gymfinity building.
15. The HGV route would be 6.10m wide and approximately 110m long and the proposed concrete apron (approximately 14m x 18m (252m²)). The proposal incorporates a new field access gate to the field to the east and fencing (1.2m high wooden post and 3 rail with rectangular wire mesh) to the east. It would introduce approximately 980m² of hardsurfaced area which is proposed to drain to a new soakaway located to the south within the MA/20/500047 planning permission area.

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16. The proposal includes relocation of part (measuring 3.5m wide) of an existing 3 sided open barn from the southern end to the northern end of the barn and includes the relocation of 2 storage containers currently located at the site. Since the original submission of this planning application the location of the two storage containers has been amended and rather than being relocated to the northern edge of the proposed concrete apron as originally proposed they are proposed to be relocated to the northeast and south east sides of proposed Concrete Apron.
17. Since the original submission of this planning application the proposal has also been amended to reduce the number of trees that would need to be removed from 13 and the amended proposal would now require the removal of 3 existing trees from 2 groups of trees. Both groups include cherry, field maple and hawthorn all of which are category C trees (low quality features). The proposed relocation of the existing barn would also result in a minor encroachment of construction work into the root protection zone of one tree. The proposal includes tree protection arrangements for retained trees during construction.
18. The proposal includes 3 lighting columns, all along the eastern edge of the proposed HGV service route. The lighting would be switched off between the hours of 11pm and 6am. Since the original submission of this application the proposal has been amended to include landscape mitigation in the form of a flowering lawn along both sides of the proposed route and a mixed native hedgerow at the top of the cutting between the east side of the route and the proposed fence.
19. The proposal includes a new gate to the south east, 20m north of the junction with the permitted service road. The gate would be open between the hours of 0730 to 2000 hours otherwise closed and locked. A corresponding gate on the existing access road to the west of Gymfinity building would be reinstated and operated in the same way.
20. The application states that the HGV route would have a maximum speed limit of 10mph and would be designed to match the scheme permitted under MA/20/500047. Double yellow lines would be provided along both sides of the proposed service route and speed and directional signage.
21. The applicant states that height restriction barriers would be in place within the approved scheme (MA/20/500047) to prevent HGV access to the existing service route once the proposed HGV route is in use. These would be located between Newnham Court Inn (Unit 12) and Noble House Chinese Restaurant (Unit 13) and midpoint along the access road between the new shopping village entrance roundabout and the service road junction.
22. The applicant proposes that the HGV route would be used daily for deliveries to the Newnham Court Shopping Village and would be used by those currently using the existing concrete slab which the applicant states is used daily for loading and unloading, largely by Notcutts Garden Centre. The applicant states that there is no limit on the number of deliveries to the concrete slab which can fluctuate due to weather and movement of stock. The HGV route would be made available to all 27 tenants located on the site as required, excluding Newnham Court Inn which has its own delivery arrangements. Deliveries are between 0730 hours and 2000 hours 7 days a week. The applicant states that the deliveries are moved by trolley or fork lift truck to their respective units.

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Planning Policy

23. The most relevant Government Guidance and Development Plan Policies are summarised below are relevant to the consideration of this application:

(i) National Planning Policy Framework (NPPF) July 2021 and the National Planning Policy Guidance (first published in March 2014), sets out the Government's planning policy guidance for England, at the heart of which is a presumption in favour of sustainable development. The guidance along with the national policy practice guidance is a material consideration for the determination of planning applications but does not change the statutory status of the development plan which remains the starting point for decision making. However, the weight given to development plan policies will depend on their consistency with the NPPF (the closer the policies in the development plan to the policies in the NPPF, the greater the weight that may be given).

In determining applications, the NPPF states that local planning authorities should approach decisions in a positive and creative way, and decision takers at every level should seek to approve applications for sustainable development where possible.

In terms of delivering sustainable development in relation to this development proposal, the NPPF guidance and objectives covering the following matters are of particular relevance:

Promoting healthy and safe communities including places which are safe and accessible (paragraph 92);

Promoting sustainable transport (paragraph 104 to 113) including ensuring that patterns of movement, streets, parking and other transport considerations are integral to the design of schemes and contribute to making high quality places. Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe; Development should create places that are safe, secure and attractive which minimise the scope for conflicts between pedestrians, cyclists and vehicles, avoid unnecessary street clutter, and respond to local character and design standards and which allow for the efficient delivery of goods, and access by service and emergency vehicles.

Achieve well-designed places (paragraph 126, 130, 131) including high quality design and a good standard of amenity for all existing and future occupants of land and buildings; ensuring the developments function well and add to the overall quality of the area and are visually attractive with effective landscaping and retention of existing trees wherever possible.

Meeting the challenge of climate change, flooding and guarding against flood risk (paragraphs 159, 167 and 168).

Conserving and enhancing the natural environment in relation to protected and valued landscapes, sites of biodiversity and soils, and minimising impacts on habitats and biodiversity, ground conditions and pollution including ensuring that new development is appropriate for the location. (paragraphs 174, 176, 180, 183, 185, 186). Development

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within the setting of an Area of Outstanding Natural Beauty should be sensitively located and designed to avoid or minimise adverse impacts on the designated area.

Encourages the implementation of enhancements for biodiversity and encourages opportunities for biodiversity improvements around developments especially where this can secure measurable net gains for biodiversity. Seeks to prevent unacceptable levels of soil, air, water pollution or land instability. Seeks to ensure new development is appropriate for its location taking into account the likely effects (including cumulative) of pollution on health, living conditions and the natural environment and the sensitivity of the site or the wider area to impact as that could arise from the development. Decisions should mitigate and reduce to a minimum potential adverse impacts resulting from noise from a new development and avoid noise giving rise to significant adverse impacts on health and quality of life.

Conserving and enhancing the historic environment, and ensuring that the impact of the proposed development to designated heritage assets is considered and the level of harm assessed (paragraph 199 – 205).

Facilitating the sustainable use of minerals such that there is sufficient supply and safeguard resources (paragraph 212).

(iii) Development Plan Policies as detailed and summarised below.

Maidstone Borough Local Plan adopted 2017

- Policy SS1 Spatial Strategy. Provides allocations for development. Junction 7 of the M20 motorway is identified as a strategic location for additional business provision in association with a new medical campus.
- Policy SP1 Maidstone urban area. The focus of new development. Includes an allocated medical campus of up to 100,000m² floorspace in accordance with RMX1(1). Key infrastructure requirements include improvements to highway and transport infrastructure, including junction improvements, capacity improvements to part of Bearsted Road, improved pedestrian/cycle access and bus prioritisation measures, in accordance with individual site criteria set out in policies RMX1(1) to RMX1(3);
- Policy SP17 The Countryside. Relates to development outside the settlement boundaries of the Maidstone Urban Area and states that proposals should not have a significant adverse impact on the setting of the Kent Downs AONB.
- Policy SP18 The Historic Environment – seeks to protect and where possible enhance the characteristics, distinctiveness, diversity and quality of heritage assets;
- Policy SP 21 Economic development – seeks to support and improve the economy of the borough and provide for the needs of businesses;
- Policy SP 23 Sustainable transport – seeks to mitigate the impact of development where appropriate on the local and strategic road networks and facilitate the delivery of transport improvements to support the growth proposed by the local plan. Seeks to ensure that the transport system supports growth projected by the

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local plan and facilities economic prosperity; improve highway network capacity and function at key locations and junctions across the borough; and includes addressing the air quality impact of transport.

Policy RMX1 Retail and mixed use allocations – allocates sites for delivery where development will be permitted provided the criteria for each site set out in the detailed site allocation policies are met.

Policy RMX1(1) Site allocation at Newnham Park for retail and mixed use. Allocates a 28.6 hectare site for a medical campus of up to 100,000m² and a replacement retail centre of up to 14,300m². Seeks to achieve development criteria as set out in the policy relating to design and layout; access; archaeology; ecology; highways and transportation and mineral safeguarding. Design and layout criteria includes provision of replacement garden centre and retail premises of up to 14,300m² within the existing floorspace footprint; mitigation of impact on the Kent Downs AONB and its setting through measures including landscaping, retention of existing planting and appropriate compensatory planting and use of low level lighting. Provision of landscape buffer to the northern and eastern boundaries of the site to protect ancient woodland and to both sides of an existing stream running north south through the site and landscape and visual impact assessment. Access criteria includes vehicular access from New Cut roundabout, enhanced pedestrian and cycle links and submission of travel plan and car park plan to be approved by the borough council. Archaeology and ecology criteria include submission of watching brief and ecology survey and mitigation measures. Highways and transportation criteria include submission of transport assessment to identify off site highway improvements and sustainable transport measures to serve the development, capacity improvements and signalisation of Bearsted roundabout and capacity improvements a New Cut roundabout, upgrading of Bearsted Road to a dual carriageway between Bearsted roundabout and New Cut roundabout. Minerals safeguarding criteria include minerals assessment to comply with policy DM7 of the Kent Minerals and Waste Local Plan (2013-2030) relating to viability and practicability of prior extraction of the mineral resource.

Policy DM 1 Principles of good design. Seeks to achieve high quality design that responds positively to, and where possible enhance, the local, natural or historic character of the area with particular regard will be paid to scale, height, materials, detailing, mass, bulk, articulation and site coverage incorporating a high quality, modern design approach; a high quality public realm Seeks to achieve development which respects the amenities of occupiers of neighbouring properties and uses and provide adequate residential amenities for future occupiers of the development by ensuring that development does not result in, or is exposed to, excessive noise, vibration, odour, air pollution, activity or vehicular movements, overlooking or visual intrusion, and that the built form would not result in an unacceptable loss of privacy or light enjoyed by the occupiers of nearby properties; respects the topography and respond to the location of the site and sensitively incorporate natural features such as trees, hedges and ponds worthy of retention within the site. Pays attention in rural and semi-rural areas where the retention and addition of native vegetation appropriate to local landscape character around the site boundaries should be used as positive tool to help assimilate development in

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a manner which reflects and respects the local and natural character of the area; provides a high quality design which responds to areas of heritage, townscape and landscape value; protects and enhance any on-site biodiversity and geodiversity features where appropriate, or provide sufficient mitigation measures; safely accommodate the vehicular and pedestrian movement generated by the proposal on the local highway network and through the site access; create a safe and secure environment and incorporate adequate security measures and features to deter crime, fear of crime, disorder and anti-social behaviour; avoid inappropriate new development within areas at risk from flooding, or mitigate any potential impacts of new development within such areas; incorporate measures for the adequate storage of waste, including provision for increasing recyclable waste; provide adequate vehicular and cycle parking to meet adopted council standards; and be flexible towards future adaptation in response to changing life needs.

- Policy DM 3 Natural environment – seeks to protect and enhance the natural environment by incorporating measures where appropriate to: protect positive landscape character, areas of Ancient Woodland, veteran trees, trees with significant amenity value, important hedgerows, features of biological or geological interest from inappropriate development and avoid significant adverse impacts as a result of development. Seeks to avoid damage to and inappropriate development considered likely to have significant direct or indirect adverse effects on designated sites of importance for biodiversity and Local Biodiversity Action Plan priority habitats. Seeks to control pollution to protect ground and surface waters and mitigate against the deterioration of water bodies and adverse impacts on Groundwater Source Protection Zones, Where appropriate, development proposals will be expected to appraise the value of the borough’s natural environment through the provision of the following: i. An ecological evaluation of development sites and any additional land put forward for mitigation purposes to take full account of the biodiversity present, including the potential for the retention and provision of native plant species; ii. Arboricultural assessments to take full account of any natural assets connected with the development and associated sites; and iii. A landscape and visual impact assessment to take full account of the significance of, and potential effects of change on, the landscape as an environmental resource together with views and visual amenity.
- Policy DM 4 Development affecting designated and non-designated heritage assets. Seeks to ensure that new development affecting a heritage asset incorporates measures to conserve, and where possible enhance, the significance of the heritage asset and, where appropriate, its setting.
- Policy DM 6 Air Quality. Seeks to ensure that the impact of development proposals to air quality are assessed and managed. Proposals for development which have the potential, by virtue of their scale, nature and/or location, to have a negative impact on air quality at identified exceedance areas, as defined through the Local Air Quality Management process, will be required to submit an Air Quality Impact Assessment (AQIA) to consider the potential impacts of pollution from individual and cumulative development, and to demonstrate how the air quality impacts of the development will be mitigated to acceptable

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levels. Proposals for development which have the potential, by virtue of their scale, nature and/or location, to have a significant negative impact on air quality within identified Air Quality Management Areas will be required to submit an AQIA to consider the potential impacts of pollution from individual and cumulative development, and to demonstrate how the air quality impacts of the development will be mitigated to acceptable levels, even where there will be no negative impact at identified exceedance areas. Other development proposals, where criteria 1 and 2 do not apply, but which by virtue of their scale, nature and/or location have the potential to generate a negative impact on air quality within identified Air Quality Management Areas will not be required to submit an AQIA, but should demonstrate how the air quality impacts of the development will be minimised; and development proposals which have the potential, by virtue of their scale, nature and/or location, to have a significant negative impact on air quality outside of identified Air Quality Management Areas will submit an AQIA to consider the potential impacts of pollution from individual and cumulative development, and to demonstrate how the air quality impacts of the development will be mitigated to acceptable levels.

Policy DM 8 External lighting. Seeks to ensure that the minimum amount of lighting necessary to achieve its purpose is proposed; design and specification of the lighting would minimise glare and light spillage and would not dazzle or distract drivers or pedestrians using nearby highways; and the lighting scheme would not be visually detrimental to its immediate or wider setting, particularly intrinsically dark landscapes. Lighting proposals that are within or are near enough to significantly affect areas of nature conservation importance, e.g. Special Areas of Conservation, Sites of Special Scientific Interest, National Nature Reserves, County Wildlife Sites and Local Wildlife Sites will only be permitted in exceptional circumstances.

Policy DM 21 Assessing the transport impacts of development. Seeks to ensure that the transport impacts of development are addressed. Development proposals must demonstrate that the impacts of trips generated to and from the development are accommodated, remedied or mitigated to prevent severe residual impacts, including where necessary an exploration of delivering mitigation measures ahead of the development being occupied; provide a satisfactory Transport Assessment for proposals that reach the required threshold and a satisfactory Travel Plan in accordance with the threshold levels set by Kent County Council's Guidance on Transport Assessments and Travel Plans and in Highways England guidance; and Demonstrate that development complies with the requirements of policy DM6 for air quality. Proposals for major development will be permitted if adequate provision is made, where necessary and appropriate, within the overall design and site layout for the following facilities for public transport secured through legal agreements:

Policy DM23 Seeks to achieve parking standards for non-residential uses taking account of accessibility and availability of public transport; type and mix of development proposed; the need to maintain adequate car parking within town centres; whether development proposals exacerbate on street car parking to an

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unacceptable degree; cycle parking facilities; electric vehicle charging infrastructure.

Kent Minerals and Waste Local Plan (2013 – 2030) Early Partial Review, 2020

Policy DM7 Safeguarding Mineral Resources. Planning permission will only be granted for non-mineral development that is incompatible with minerals safeguarding where it is demonstrated that either:

1. the mineral is not of economic value or does not exist; or
2. that extraction of the mineral would not be viable or practicable; or
3. the mineral can be extracted satisfactorily, having regard to Policy DM9, prior to the non-minerals development taking place without adversely affecting the viability or deliverability of the non-minerals development; or
4. the incompatible development is of a temporary nature that can be completed and the site returned to a condition that does not prevent mineral extraction within the timescale that the mineral is likely to be needed; or
5. material considerations indicate that the need for the development overrides the presumption for mineral safeguarding such that sterilisation of the mineral can be permitted following the exploration of opportunities for prior extraction; or
6. it constitutes development that is exempt from mineral safeguarding policy, namely householder applications, infill development of a minor nature in existing built-up areas, advertisement applications, reserved matters applications, minor extensions and changes of use of buildings, minor works, nonmaterial amendments to current planning permissions; or
7. it constitutes development on a site allocated in the adopted development plan where consideration of the above factors (1-6) concluded that mineral resources will not be needlessly sterilised.

(iii) Other guidance, supplementary planning documents and local plan documents

A number of documents are referred to in or accompany the development plan documents and are material to decision making including:

Regulation 19 version of the Maidstone Borough Local Plan review – this sets out the proposed planning policies to guide development in the borough up to 2037. This is currently at its third public consultation. This document is a material planning consideration, however at this time individual policies are not apportioned much weight. It is the version that MBC seek to adopt, subject to Planning Inspectorate examination and will then replace the current Adopted Local Plan 2017.

Maidstone Integrated Transport Strategy 2011 – 2031. This identifies targeted transport improvements at key locations to relieve congestion including those at the M20 junction 7 Strategic area (including Bearsted Road and New Cut Junction).

Infrastructure Delivery Plan 2020. This accompanies the Local Plan and identifies highways and transportation requirements in order to support mixed use development adjacent to M20 Junction 7.

Kent County Council's Local Transport Plan (4) Delivering Growth without Gridlock 2016 – 2031. This contains the transport priorities for the County and is produced by

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KCC in relation to its role as a Local Transport Authority. The transport priorities for Maidstone includes M20 junction 7 improvements and Bearsted Road corridor capacity improvements.

Kent Downs AONB Management Plan 2021 to 2026. This contains policies for conserving and enhancing the AONB.

Consultations

24. Responses have been received from our consultations with the following summarised comments:

Maidstone Borough Council raised no objection to our first consultation regarding the proposal and refer to their report on the proposal which states that the application site is within a Tree Preservation Area known as “Trees on Land North of Bearsted Road, Boxley” and that the documents submitted in support of the application indicate that the trees to be removed are of low quality. On this basis and that the development is in order to support the remaining development in the area the removal of the trees would be justified. The report states that one representation to MBC has been received, which to summarise raises a concern that the development proposed by Kent Country Council (KCC) is outside of their remit. The report states Maidstone Borough Council wishes the application to be determined in accordance with the relevant local planning policies and that the views of any consultees are taken into account.

In response to our 2nd consultation relating to amendments (to the planning statement and to the location of containers) to the proposal, MBC raised no objection subject to conditions/informatives

(1) The separate related planning application under MBC reference 21/503982/FULL (Retrospective application for retention of existing concrete slab hardstanding area) was considered by the MBC Planning Committee on the 18 November 2021. As part of the resolution to approve permission, the Committee expressed concern about the way in which application 21/503982/FULL has been progressed in isolation. The Committee recommended that when the application for the construction of the service road (KCC/MA/0168/2021) is determined by Kent County Council as County Planning Authority, serious consideration needs to be given to the provision of strategic landscaping along the new road area because it is within the foreground of the Kent Downs Area of Outstanding Natural Beauty.

A 3rd consultation on further amendments (reducing the number of trees that would be removed and including flowering lawn and native mix hedge planting) to the application has also been carried out. No response has been received to date.

Transportation Planning do not object to the proposal and comment that the service road meets design standards and the concrete apron allows HGV traffic to turn using a forward gear, without the need to reverse. Comment that signage and road marking to differentiate that the service road should not be used by ordinary vehicular traffic associated with general shopping is provided and double yellow lines installed to prevent potential misuse along the service road.

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Highways England (now National Highways) do not object to the proposal and comment that the proposed development is located adjacent to the M20 Junction 7 forming part of the strategic road network (SRN), however the construction of the service road and re-siting of the barn and storage containers would not impact on the SRN and they therefore consider that the development would not materially affect the safety, reliability and or operation of the SRN. They state that their no objection is on the basis that the proposals would generate minimal additional traffic on the SRN in peak hours.

Kent Minerals & Waste Local Plan Team raises no objection in respect of minerals safeguarding policy DM 7. It is considered that prior extraction of the Folkestone Beds sand is unlikely to be viable or practicable given the size of the site, and therefore it would be exempt by criterion 2 of policy DM7.

Boxley Parish Council comment that they have no material planning reasons to object to this application.

Kent County Council Flood and Water Management raise no objections to the proposal and comments that an additional 980m² of impermeable service road is to drain to soakaway 1. Supporting calculations provided within the Technical Note take account of the additional impermeable area. It would also appear that the soakaway is designed to accommodate storms up to and including the crucial 100 year event plus 40% climate change with no apparent flooding. Comment that condition 10 under application reference number MA/20/500047/RVAR has been discharged under older plans that did not take account of the additional road area. Request that plans submitted under that condition are updated to include the Technical Note accompanying this submission. No new matters are raised in response to our consultation regarding amendments to the proposal.

Environment Agency comment that planning permission should only be granted to the proposed development as submitted if planning conditions and informatives are imposed covering submission and approval of a scheme to deal with the risks associated with contamination including a site investigation scheme based on a preliminary risk assessment to provide information for a detailed assessment of the risk to all receptors that may be affected including those off site; the results of the site investigation and detailed risk assessment; an options appraisal and remediation strategy giving full details of the remediation measures required and how they would be undertaken and a verification plan providing details of the data that would be collected to demonstrate that the works set out in the remediation strategy are complete and identifying any requirements for longer term monitoring of pollution linkages, maintenance and arrangements for contingency action. The Environment Agency also request submission of a verification report demonstrating completion of the works set out in the approved remediation strategy and a plan for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action, if appropriate, and a condition concerning contamination if it is found during development and has not previously been identified at the site and a condition concerning infiltration of surface water drainage. The Environment Agency advise that only clean uncontaminated water should drain directly to the surface water system, that there should be appropriate pollution prevention measures for drainage from access roads and that roof drainage should drain directly to the surface water system and that there should be no discharge to land impacted by contamination or land previously identified as being contaminated and no discharge to made ground and no direct discharge to groundwater.

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No new matters are raised by the Environment Agency in response to our consultation regarding amendments to the proposal. They comment that the design of infiltration SuDS may be difficult or inappropriate in this location and without the suggested condition state that they would object to the proposal in line with paragraph 170 of the NPPF because it cannot be guaranteed that the development would not be put at unacceptable risk from, or be adversely affected by, unacceptable levels of water pollution.

Natural England do not object to the proposal and considers that based on the plans submitted it would not have significant adverse effects on statutorily protected nature conservation sites. They provide generic advice on other natural environment issues relating to protected landscapes (AONB), biodiversity duty, protected species, local sites and priority habitats and species, ancient woodland, ancient and veteran trees, best and most versatile agricultural land and soils and access, recreation, rights of way and environmental enhancement.

Kent Fire and Rescue Service comment that the emergency access requirements for the Fire and Rescue Service under the above Act have been met. Fire Service access and facility provisions are also a requirement under B5 of the Building Regulations 2010 and must be complied with to the satisfaction of the Building Control Authority. A full plans submission should be made to the relevant building control body who have a statutory obligation to consult with the Fire and Rescue Service.

Amey Noise comment that the Noise Assessment Technical Note provides an overview of the potential noise impact the proposed service road and associated HGV movements may have. No formal noise modelling has been undertaken as the new HGV route would divert existing HGV movements away from the single noise sensitive receptor at Newnham Court and would likely result in a marginal beneficial reduction in noise impact due to the increased distance from the HGV service road in comparison to the existing route. They have reviewed the Noise Assessment Technical Note and are satisfied that the changes are relatively minor which would not lead to any additional noise impact and could possibly show marginal benefit in reduced noise levels. It supports the measures to reduce potential noise impact by the imposition of a 10 mph speed limit along the service road, the use of the turning head to reduce the need for reversing and during construction period, the use of a Construction and Environmental Management Plan to approval of the planning authority.

Amey Air Quality agree with the applicant's assessment that with the recommended mitigation (implementation of a construction environmental management plan) the proposal would not have significant adverse air quality effects on the amenity of nearby residents or the environment as a whole and that the proposal complies with the NPPF (conserving and enhancing the natural environment) and the Policies from the Local Plan. Amey Air Quality also comment that they are satisfied that the methodology for air quality assessment is adequate and sufficient information has been provided relative to the scale of potential impact. They comment that the conclusions of the applicant in relation to air quality are reasonable and they see no grounds for refusal.

Kent County Council Ecology Advice Service in response to the initial consultation advise that there is a need to understand how the road would be lit and if lighting can be switched off for some periods overnight. They comment that the landscape plan details that amenity grass mix would be sown adjacent to the HGV route and they would encourage the applicant to either plant a replacement hedge or use a species mix that would benefit biodiversity – such as a flowering lawn mix (if the grass needs to be kept short) and that regardless of

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what enhancements are proposed within the wider area enhancements, even small enhancements can be incorporated into all applications.

In response to the amended information consultation the Ecology Advice Service comment that sufficient information has been provided to determine the planning application and that it is possible that bats may forage within the site and highlight that as a result of application MA/20/500047 a hedgerow and a wildflower meadow would be created within the site and therefore once those habitats are established they may provide further opportunities for foraging bats. The lighting timings would provide periods of the night when there would be no lighting from the development and therefore reduce the impact on any foraging bats.

The landscaping plan confirms that a flowering grass mix and a native species hedgerow would be sown adjacent to the HGV route which would provide foraging/nesting opportunities for native species including invertebrates, bats and breeding birds. Advise that the hedge/flowering lawn must be established within a year of the development being implemented.

25. No response has been received to date to our consultation with Kent County Council's Archaeological Officer; Conservation Officer; South East Water and Kent Downs AONB.

Local Member

26. The local County Member for Maidstone Rural North, Sir Paul Carter was notified of the application on 27 July 2021. No views have been received to date.

Publicity

27. The application was publicised by the posting of 8 site notices and an advertisement in a local newspaper.

Representations

28. In response to the publicity, there has been objection from one local resident. It is for this reason that the proposal is being reported to the Planning Applications Committee for a decision in accordance with our scheme of delegation under the Constitution.
29. Some of the matters raised in the objection relate to applications and decisions made by MBC such as in relation to the existing concrete pad which this proposal would link to, whilst others relate more directly to this proposal. The objection to the proposal is therefore summarised as follows:

Matters relating to applications and decisions made by MBC

- Concerns raised about the application and decision-making processes relating to the application 21/503982 determined by MBC for the retrospective retention of the existing concrete pad.
- That the existing concrete pad site should not be used until a satisfactory noise management plan is put in place which in the residents' view is unlikely to be possible. The planning permission for 21/503982 [retention of existing concrete pad] requires an

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acoustic survey and subject to the finding of the acoustic survey an acoustic barrier may be required. The construction of a suitable acoustic barrier is unlikely to be practical because of the 10m distance between the site and nearby residential property and if that was the case the proposed use of the site as a goods distribution area would have to be abandoned and the new HGV route would not be required. If the planning conditions for 21/503982 are not complied with the hardstanding is required to be removed and all associated materials taken off the site.

- That the location of the existing concrete pad which the resident refers to as a new goods distribution area is in the worst possible position on the site with regards to nuisance being both close to residential property and KIMS.
- The existing concrete slab is being used as a new goods distribution area and does not have any access to it and is a standalone site and the resident considers that the road that is currently in use does not have planning permission and should be a footpath link between the KIMS site and Newnham Court.
- There would be noise nuisance to neighbouring property as a result of the existing concrete slab and New Goods Distribution Area.
- The use of the concrete pad does not have planning permission as the significant increase in use is a Material Change of use which has occurred since the grass was removed from the concrete and this significant increase in use has not been a continuous use for ten years prior to 28 January 2021 and so is not permitted by the Lawful Development Certificate.
- That the Lawful Development Certificate is incorrect as the land was grass and the land had also been used for parking during the previous 10 years prior to 28 January 2021. To obtain the Lawful Development Certificate the land was meant to have been in continuous use for turning, loading and unloading for ten years prior to 28 January 2021 which it was not.
- The proposed use of the existing concrete slab is a material change of use and requires planning permission.

Matters more specifically relating to this application

- The proposal would enable an existing concrete slab to be used as a goods distribution area 10m from neighbouring property.
- There would be noise nuisance to neighbouring property as a result of the proposed HGV route which would serve the existing concrete slab.
- Kent County Council must already have the necessary Planning Permission to undertake the Bearsted Road Improvement Scheme. It would in the resident's view have been Maladministration to approve MA/20/500047 (KCC/MA/0271/2019) if KCC/MA/0271/2019 was a dangerous or an incomplete scheme.
- That there would be a very large increase of use of the existing concrete pad site which is cut off and has no road link.

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- The proposed new HGV route and new concrete apron is a change of use of the land which is a planning matter for Maidstone Borough Council and is not in Kent County Council's remit.
- Kent County Council has wrongly tried to claim that KCC/MA/0168/2021 is a regulation 3 application. The land that is intended to be used for the proposed new HGV route is not owned by Kent County Council and will not be used by Kent County Council. It would also be privately owned and maintained by the landowner so, there would be no reason or point in Kent County Council granting itself planning permission for the proposed new HGV route. If permission was granted it would be pointless as the planning permission would only be for Kent County Council's use and would not be transferable to the proposed owner or user of the land.
- The resident considers that the proposed HGV route would still require planning permission from Maidstone Borough Council before it could be constructed and used.
- That the application contains information which the resident considers to be inaccurate in relation to the use of the existing concrete slab and the Lawful Development Certificate 21/500139/LDCEX; how the HGV deliveries use the existing concrete slab – in the resident's view the use has changed over time whereas the planning statement gives the impression to the reader that the present use of the site is a historic use by saying "All HGV deliveries to the site (except for Newnham Court Inn which is in separate ownership) are required to use this area". The resident considers the statement as very misleading as their view is that the present situation is a use which does not have planning permission and causes unacceptable nuisance.
- That the qualitative assessment referred to in the Noise Assessment Technical Statement Note was agreed to by the MKSS Environmental Health Team on the basis of incorrect information provided to them by the applicant's highways and transportation design teams regarding there being no changes to traffic flow or the operating hours of the existing HGV turning area. The resident considers that this information was incorrect and that KCC knew that a grassed area could not have been used as a goods distribution area and that the claim "turning of HGV's has not changed in over 10 years" was false.
- That the application KCC/MA/0168/2021 contains the wrong methodology regarding the nuisance that the local resident considers would be caused to Newnham Court. As such the local resident disputes a number of statements in the applicant's planning statement relating to noise impact.
- the proposed new HGV route would cause unacceptable nuisance and does not respect the amenities of occupiers of neighbouring properties as it is proposed to be in the worst possible position for causing noise nuisance and there is plenty of other land available that could be used for a New Goods Distribution area further away from residential property.
- That a statement made in the withdrawn application KCC/MA/0086/2021 that the proposal does not contribute to the key objective of the approved scheme (MA/20/500047) to reduce queuing at peak periods and ease congestion at junctions also applies to this proposal.

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Other matters contained within local resident objection

- That Kent County Council wrongly applied for KCC/MA/0271/2019 (the approved scheme MA/20/500047) which was in the resident's view not in Kent County Council remit as KCC/MA/0271/2019 involved a change of use of land.
 - The relationship between this application and the Lawful Development Certificate 21/500139/LDCEX granted by MBC (relating to the existing concrete slab) has been used to try and obtain further permissions including for an HGV route. The resident considers that the Lawful Development Certificate 21/500139/LDCEX was incorrectly obtained and then used to obtain the planning permission for 21/503982/FULL (the application to MBC for the retention of the existing concrete slab). Kent County Council then used the incorrect Lawful Development Certificate to wrongly obtain planning Permission for (21/503982 Retrospective application for retention of existing concrete slab hardstanding area) as the area of land detailed in Lawful Development Certificate was now concrete enabling the area to be used as a New Goods Distribution Area.
 - Concerns that the application made to MBC 21/500139/LDCEX "validates" the application for the HGV route. In the resident's view the applicant has wrongly applied for permission for the HGV route to service a "good distribution area".
 - Concerns about how the applicant has applied for permission for the HGV route, including the number of applications made to KCC for the HGV route proposed and the applications made to MBC relating to the existing concrete slab.
 - That in the resident's view there may be a conflict of interest in that the applicant's agent has also submitted an application to MBC 21/503982/Full concerning the retention of the existing concrete slab.
 - Concerning payment of planning application fees and use of Government funding and public money and questions why KCC wishes to have permission for the HGV route.
 - That the application contains information which is considered to be inaccurate in relation to the use of the existing concrete pad by Sussex Beds. *[N.B The reference to Sussex Beds has been removed from the planning statement in the amended documents submitted]*
30. In addition to the objection, three representations from Maidstone Borough Councillors have also been received. In summary, the following comments are made:
- This application removes existing trees and provides no landscaping to screen and assimilate the development, light pollution and the vehicle activity it will generate into the landscape.
 - Further, seeding is shown to comprise 'amenity grass'. Native tree and shrub planting belts should be provided along the length of the new road and all re-seeding should comprise a native wildflower grassland seed mix appropriate to the dry sandy substrate.
 - Long term maintenance must ensure the wildflower grassland lining the new road is maintained as a sward mosaic, with some areas left uncut through each winter.

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- MBC's response to the original application relating to this service road, advised that MBC would wish to see some form of hedging and tree planting to the east of the service road to partially screen it. The KCC approval MA/20/500047, includes this requirement in condition 13 which requires submission and approval of details of native hedge and tree planting for the east side of the service road (in addition to the landscaping details already approved) within 6 months of the date of the permission. It also requires details of the long-term management arrangements for the hedge. Comments that it appears from the submitted plan that no landscaping other than grasses is proposed.
- Unclear as to whether the service road sits higher or in a cutting through the existing grassland. If in a cutting, then landscaping is less important but if it is sitting higher, landscaping is needed to screen the new road and fence from wider views, including from the Kent Downs AONB.
- The application site is in the foreground of the Kent Downs AONB and significant care must be taken to minimise harm to the landscape setting of the protected landscape.
- The application site is visible from the Weaving Heath public open space to the south east.
- The absence of landscaping is in conflict with paragraphs 176 and 177 of the NPPF and the Government's Planning Framework and policies SD3, SD8 and SD12 of the Kent Downs AONB Management Plan.
- All development is now required to demonstrate a net gain for biodiversity, however, the current proposal will directly destroy grassland and fragment the ecological integrity of the application site.
- Any surface water drainage should comprise a 'wildlife friendly' design to prevent reptiles, amphibians and other wildlife perishing within the drains.
- Any lighting proposed must be low key and utilised red light filters to minimise harm to biodiversity.

Discussion

31. In considering this proposal regard must be had to the Development Plan Policies and planning policy outlined in paragraph 23 above. Section 38(6) of the Planning and Compulsory Purchase Act (2004) states that applications must be determined in accordance with the Development Plan, unless material considerations indicate otherwise. Therefore, the proposal needs to be considered in the context of the Development Plan Policies, Government Guidance and other material planning considerations including those arising from consultation and publicity.
32. In my opinion, the key material planning considerations in this particular case can be summarised in relation to the subheadings below:

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Need and location

33. The proposal is linked to and forms part of wider highway improvements in the area, which are required in order to support development in the Borough including allocated development at Newnham Park. The Local Plan provides strong policy support for these highway improvements via policies SS1, SP1, RMX1 and RMX1 (1) and SP23 and is also supported within the Maidstone Integrated Transport Strategy 2011 – 2031.
34. There is strong policy support in the Maidstone Borough Local Plan for development which meets the terms of the allocation RMX1(1) at Newnham Park within which the proposed site sits. Policy RMX1(1) details that the current shopping village has been and continues to develop in a piecemeal fashion over time and the policy seeks to achieve a comprehensively planned development including replacement premises for the existing garden centre and for the shops already established at Newnham Court Shopping Village within the vicinity of the existing retail footprint (as shown on the policies map). The detail of future redevelopment of the shopping village is not currently known. A decision is required in relation to this application which relates to the HGV service route provision to serve the current shopping village layout and which forms an extension to the access arrangements already approved within the MA/20/500047 proposal.
35. KCC as applicant wishes to remove the existing access to the shopping village from Bearsted Road and relocate it to a new access and link via Newnham Court Way, works which are aimed at reducing congestion and improving junction and link capacity and to provide appropriate transport infrastructure. The Local Plan in paragraph 4.208, states that the provision of appropriate transport infrastructure is critical to the successful development of Newnham Park. The changed access arrangements to the shopping village already have planning approval however the work has not yet been carried out.
36. This proposal is submitted as a “Regulation 3” application pursuant to the Town and Country Planning General Regulations 1992 by KCC (Major Capital Programme Team) and the works would form part of the County Council’s A249 Bearsted Road Capacity Improvement Scheme. The applicant states that the proposal is a direct consequence of KCC’s objective to remove the existing access onto Bearsted Road hence why the application is being made to KCC rather than it being made by the owners of the shopping village to the Borough Council. Regulation 3 of the Town and Country Planning General Regulations 1992 requires the County Council to make and submit planning applications to the County Council for determination if the development is to be carried out by or on behalf of the County Council. Such proposals may be on land which is not owned by the County Council. In this case, the applicant has stated that the proposal would only take place together with the works under the approved scheme (MA/20/500047) and that the works would not take place as a standalone development. Whilst KCC is not the landowner the proposal is integral to the relocated access arrangements and forms part of the wider road improvement works that are to be carried out by (or on behalf of) the County Council as the Highways Authority. The approved scheme MA/20/500047 (KCC/MA/0271/2019) was also determined as a Regulation 3 application. This is also referred to in the resident’s reasons for objection. If permission is granted, the permission would be for KCC’s works and once completed the development would be able to be used for the intended purpose by the landowner and others to service HGV deliveries to the shopping village as detailed in the planning application. No further planning permissions would be required from MBC before

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construction and use of the proposed route and the application area under consideration. Matters relating to the existing concrete pad and the existing access arrangements to it beyond this application area would be for MBC.

37. The proposal is located to the north-east of an already approved highway improvement scheme (MA/20/500047). If permitted, this proposal would result in an additional 110m section of service road such that HGV traffic would be routed off the new service access route already approved. The proposal would mean that HGV traffic would be separated completely from other vehicular traffic and pedestrians on the site by continuing on the proposed HGV route which would run to the east of the Newnham Court shopping village on land which is currently agricultural, and join the existing concrete slab via a proposed concrete apron to the north of the Gymfinity building. The proposed concrete apron adjoining the existing concrete pad would be used to provide turning space for access to and from the proposed HGV route. A condition is recommended to ensure that the turning space is kept clear for access and turning.
38. The approved scheme (MA/20/500047) had originally been designed with an additional section of HGV route in it, however procedural matters relating to the lawfulness of the existing concrete slab were raised at the time which resulted in a section of HGV route being removed from the planning application for the approved scheme, pending resolution of the lawfulness of the existing slab. This has now been resolved by 21/50139/LDEX and 21/503982/FULL.
39. The current application states that the main users of the proposed HGV route would be Notcutts Garden Centre and that the route would be available to all 27 tenants of the Shopping Village. Newnham Court Inn has its own delivery arrangements and would not use the proposed HGV route. The Lawful Development Certificate (Existing) which was granted by MBC, relates to the area defined within the Certificate (i.e. the location of the existing concrete pad) and so is already available for use by any or all of the occupants of the shopping village. There are no restrictions on the hours or patterns of use in the Certificate of Lawfulness which MBC issued. The above movements would currently travel through the shopping village to the existing concrete pad together with other pedestrian and vehicular traffic using the shopping village. The already approved scheme would require these movements to travel up a new service route and re-join pedestrian and other vehicular traffic at a new mini roundabout. The application before you would take this traffic away from pedestrian and other vehicular traffic within the shopping village to the east of the village and therefore improve highway safety within the shopping village.
40. The applicant states that the approved access scheme is not designed to accommodate HGVs from the point that they would turn left into the shopping village because the approved mini roundabout (which is slightly north of the existing mini-roundabout) that the route leads to was not designed for large HGV lorries to turn right at and would create an unacceptable highway situation. A service road vehicle tracking sketch plan submitted by the applicant demonstrates this. HGVs would also not be able to navigate the new mini roundabout at Newnham Court Inn onto the access road without holding up other traffic movement - hence the original reason for inclusion of a HGV service route in the main application.
41. The application before you would mean that the HGVs would not need to enter the shopping village from the new approved service route and join other traffic at the new

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approved mini roundabout, as HGVs would be completely diverted away via the proposed HGV route to the east. Furthermore, the application states that it would not be possible to use the current access to Newnham Court Village in the proposed highway improvement scheme because the current access has a 1:10 gradient and the additional lane proposed along the north east side of Bearsted Road (i.e. nearest to Newnham Court Shopping Village) would reduce the current access length and increase its steepness which would prevent HGV use. An alternative HGV route is therefore required. The approved scheme MA/20/500047 (KCC/MA/0271/2019) therefore provides a new service route for HGVs although, as discussed above, this does not extend as far as the existing concrete slab.

42. Objection has been received in relation to the need for the proposal given that KCC already has planning permission to undertake the Bearsted Road Improvement Scheme and that in their opinion it would have been maladministration to approve a scheme which was dangerous or incomplete. The already approved scheme MA/20/500047 (KCC/MA/0271/2019) was determined in accordance with the relevant planning policy and material considerations and with respect to the content of the application and consultation responses received. The permitted scheme provides a new access to the site for all vehicles to all parts of the site, except the more accessible link for HGV's to the delivery area which was withdrawn for further consideration. The permitted scheme is not dangerous. The proposal before you seeks to provide a better means of access for HGVs to the existing concrete slab and highlights improvements in relation of HGV access that are relevant to that.
43. The application also states that it is desirable for safety reasons to separate out the larger HGV delivery movements from the general shopping village traffic and from pedestrians, particularly given the Pennies Day Nursery and the Gymfinity traffic on the site. This proposal would remove the HGV traffic from the general shopping village traffic by redirecting it to the east. However, it would not eliminate the internal traffic taking deliveries from the concrete slab to the shopping village units. These movements would continue but would not involve HGV movements. The location of this proposal site would connect to the already approved service route at a point to the east of the existing shopping village and lead to an existing built concrete slab, north of the Gymfinity building which is currently in use for vehicle deliveries and turning in connection with the shopping village
44. In addition, there would be benefits for users of a pedestrian link between car parking at Newnham Court Shopping Village and the KIMS site which is used by KIMS staff which is located to the northwest of the proposal. This proposal would redirect the HGV traffic further to the east of the site rather than alongside the pedestrian route as is currently the case.
45. I consider that given the content of the application, the overall need for the proposal can be summarised as being in order to provide adequate access for HGV lorries so as to reduce traffic congestion within and around the shopping village and to separate HGV traffic where possible from other traffic and users at the site. I conclude that given these circumstances and the site allocation and the planning policy support for highway works to support the site allocation that the need for the proposal is justified in planning terms and that the proposal links to the wider capacity improvement works.

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46. This proposal relies upon the approved scheme (MA/20/500047) being implemented. It also relies on the use of the existing concrete slab on the adjoining site to achieve a full turning circle for the HGVs so that they can turn and exit the site by the same proposed HGV route. It is however noted that the existing concrete slab does not form part of the red line boundary of this planning application. The proposed concrete apron would be adjacent to the existing concrete pad and would be used to provide access to the existing concrete slab and turning space for access to and from the proposed HGV route. A condition would be imposed to ensure that the proposed concrete apron is kept clear for that use and not used for loading or unloading.

The Earlier Consents

47. Local objection to the proposal relates in part to the proposed HGV route servicing an existing built concrete slab and the planning status of the existing concrete slab which the resident refers to as a "goods distribution area". The local resident considers that the existing concrete slab and existing access to it from the shopping village does not have appropriate planning permission and should not be there. The resident considers that the new road and the new area of concrete require a change of use application and that there would be a very large increase in the use of the site. A further application for a change of use is not required by the County Planning Authority as the proposed development of a HGV service route as described in the full planning application received relates to the use of the proposed HGV route and concrete apron and the engineering works required for the route. Furthermore, I note that MBC have not objected to the proposal or indicated that a further application would be required in connection with this proposal. The current application describes that there would not be an increase in the use of the existing concrete slab to that already allowed. The use already allowed does not have any limitations imposed by the MBC's Lawful Development Certificate (reference MBC 21/500139/LDCEX) and this states that the proposed service route could be used to service all of the existing units at the site (except Newnham Court Inn). The MBC planning permission for the existing concrete slab would however provide some controls over the use of the existing concrete slab through the planning conditions imposed and these would continue to apply if permission is granted for this proposal. In so far as whether the correct permissions are in place for the existing concrete slab, whether these activities are lawful and whether they are causing unacceptable amenity impacts, these are matters for MBC to address rather than the County Council as Planning Authority. The Borough Council is aware of the allegations. We have not received any objection in this regard nor advice that indicates that the decisions are unsound from MBC as a result of our consultations with them.
48. The existing concrete slab has been the subject of a separate application determined by Maidstone Borough Council, reference 21/500139/LDCEX for a Lawful Development Certificate (Existing). This sought to establish the lawfulness of the existing use for 'the turning of delivery vehicles and for the loading and unloading of goods being delivered to premises at the Newnham Court Shopping Village' The use of the site for the turning of delivery vehicles and for the loading and unloading of goods being delivered to premises at the Newnham Court Shopping Village has been established by the Borough Council to be lawful and therefore this proposal would link to an area of the site for which the use has been determined by Maidstone Borough Council as a lawful use. As previously discussed, there are no restrictions within the Certificate as to the number, frequency or hours of use.

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49. Furthermore, planning permission has been granted for the retrospective retention of the existing concrete slab hardstanding area, subject to conditions. The use of the slab has been determined by MBC to be lawful and the retrospective retention of the concrete slab has planning permission subject to conditions. MBC have also not raised objection to this proposal, subject to consideration of strategic landscaping. This planning application now needs to be decided in accordance with the development plan unless other material planning considerations indicate otherwise.
50. To summarise, this proposal is located within an allocated site in the Local Plan and would need to be assessed in policy terms within that context. MBC has granted consent for retrospective retention of the existing concrete slab hardstanding area (21/503982/Full) and has issued a lawful development certificate (21/500139/LDCEX) for the use. Given the policy background relating to transport infrastructure to support development at this location and the need for the completion of a suitable service link for HGV traffic, I conclude that the need for the proposal is met and the location of the proposal is acceptable.

Highways and transportation

51. National planning policy seeks to ensure safe and suitable access for all users and that significant impacts from development on the transport network in terms of capacity and congestion or on highway safety can be mitigated to an acceptable degree. It seeks to give priority first to pedestrian and cycle movements within schemes and to facilitate high quality public transport with layouts that maximise the catchment area for bus or other public transport services; address the needs of people with disabilities and reduced mobility in relation to all modes of transport; create places that are safe, secure and attractive which minimise the scope for conflict between pedestrians, cyclists and vehicles and avoid unnecessary street clutter and respond to local character and design standards; and allow access for emergency vehicles.
52. The proposal seeks to separate HGV traffic from pedestrian and other traffic within the shopping village and provide a continuation to the approved HGV service route which would achieve NPPF policy objectives concerning safe and suitable access.
53. There is an existing pedestrian route between Newnham Court Shopping Village and the KIMs staff parking area and the KIMS hospital is located to the north west of the proposal, beyond the existing concrete slab and separated by an internal access road. The route leads to an access gate for the KIMS hospital and is signposted as being for staff only.
54. The proposal seeks to provide a safer HGV access route in order to accommodate a 16.5m articulated vehicle which the applicant advises cannot be accommodated within the existing approved scheme (MA/20/500047) either on the consented service route because of the right hand turn at the new mini roundabout or via the new roundabout and Newnham Court Inn as discussed in paragraph 40 above. The proposal, together within the already approved scheme seeks to achieve the highway improvements summarised in paragraph 7 and 8 above.
55. The proposal if granted would mean a change to the approved scheme (MA/20/500047) at the northern bend westwards into the site. Within this part of the site, the red line

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boundary of this proposal would overlap with that of the MA/20/500047 approval. Some works would be undertaken under the already approved scheme (such as tree removals in connection with car parking space creation for that scheme) as already consented.

56. The proposal forms part of the transport infrastructure, being part of the Bearsted Road Improvement Scheme required to support new development which is already allocated within the Maidstone Local Plan. It therefore meets NPPF objectives relating to promoting sustainable transport.
57. One of the objections advises that a statement made in the withdrawn application KCC/MA/0086/2021 that the proposal does not contribute to the key objective of the approved scheme (MA/20/500047) to reduce queuing at peak periods and ease congestion at junctions also applies to this proposal. This application (KCC/MA/0168/2021) does not include this statement within the planning statement. The objectives of the overall scheme of works known as the Bearsted Road Capacity Improvement Scheme (including the already approved scheme MA/20/500047) are aimed at easing congestion and this is supported in planning policy terms. The proposed HGV route alone does not directly contribute to the easing of congestion, however with the approved scheme and other Bearsted Road improvements, it contributes to this objective. It does address safety within the shopping village by diverting large HGV and other service and delivery vehicles away from the shopping centre facilities and separating HGV traffic from other traffic. As discussed above the proposal would address HGV access improvements to the existing arrangements and the approved scheme (MA/20/500047).
58. The proposal meets the Maidstone Local Plan objectives relating to transportation matters and has not given rise to objection from Transportation Planning as Highways Authority and statutory consultee or from Highways England (now National Highways). It does not give rise to objection from Kent Fire and Rescue in relation to emergency access matters and MBC have also not objected to the proposal. I therefore conclude that the proposal is acceptable on highway and transportation grounds.

Air quality

59. The NPPF states that decisions should ensure new development in Air Quality Management Areas and Clean Air Zones is consistent with the local air quality action plan. This proposal is not located within an Air Quality Management Area (AQMA) however there is an AQMA near to the site, approximately 150m to the north at the M20.
60. Local Plan Policy DM6 seeks to ensure that the impact of development proposals to air quality are assessed and managed. Air Quality Planning Guidance 2017 has been published by MBC setting out the processes for assessing and addressing air quality impacts of new development in order to support Local Plan Policies DM6 and SP23. Local Plan policy DM1 also includes consideration of air quality matters in relation to design of developments.
61. An air quality assessment was submitted with the approved development MA/20/500047 and concluded that on the basis of publicly available information on air quality obtained from MBC and Defra, baseline air quality conditions at sensitive receptors are likely to be reasonably good. Mitigation in the form of a construction environmental management plan would be required to address construction phase air quality impacts using industry

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standard best practice measures. With the appropriate mitigation, the risk of adverse air quality impacts during the construction phase would be low and it is considered unlikely that the residual effects would be significant. Mitigation would not be required for operational phase air quality impacts as these are assessed as being negligible. The operational residual effects of the Scheme would not be significant. The Scheme complies with national and local policy for air quality.

62. The applicant states in their Planning Statement that this proposal would not have a measurable impact and would not change the findings of the Air Quality Assessment referred to in the approved development (MA/20/500047) and as summarised above. With the recommended mitigation in the form of a construction environment management plan, the proposed development would not have significant adverse air quality effects on the amenity of nearby residents or the environment as a whole. As such, the proposal complies with the NPPF (conserving and enhancing the natural environment) and the policies from the Local Plan.
63. Given that there is no objection on air quality grounds from the County Councils Air Quality Advisor nor from MBC I consider that the air quality impacts have been adequately addressed within the proposal and the submission of a construction environmental management plan can be required by condition.

Noise Impacts

64. The NPPF seeks to ensure new development is appropriate for its location taking into account the likely effects (including cumulative) of pollution on health, living conditions and the natural environment and the sensitivity of the site or the wider area to impacts that could arise from the development. Decisions should mitigate and reduce to a minimum potential adverse impacts resulting from noise from a new development and avoid noise giving rise to significant adverse impacts on health and quality of life.
65. Local Plan Policy DM1 seeks to ensure good design of new development in relation to noise including design that respects the amenities of occupiers of neighbouring properties and uses and provide adequate residential amenities for future occupiers of the development by ensuring that development does not result in, or is exposed to, excessive noise.
66. The approved scheme (MA/20/500047) included a Noise Assessment Report which concluded that there were no significant noise effects of that proposal, and no noise mitigation was considered necessary. This application includes a Noise Assessment Technical Note regarding the potential noise impact in relation to the proposal, specifically the proposed HGV route and the concrete turning apron.
67. The Technical Note identifies and focuses on the residential property at Newnham Court (to the north west) as a residential receptor.
68. The Technical Note states that there would be no material changes to traffic flow, hours or use of the existing HGV turning area at the existing concrete slab and that the only change from a noise perspective is the movement of the access road from the west of the existing turning area to the east of the existing turning area increasing the distance by approximately 20m between the access road and the noise sensitive receptor to the

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north. The applicant's noise assessment is based upon the proposal that would cause HGV traffic to enter and exit from the east instead of the west. It concludes that from a noise impact perspective, this re-routing of the access road is the only material change, since it is understood there would be no changes to HGV traffic flow, operating hours, or general delivery activities taking place on the concrete slab. Sound levels to the east on the new HGV access road would increase, however this would cause a decrease in sound levels on the old HGV access route to the west (i.e. the route closer to the nearest residential property). Sound levels of activities on the concrete slab area would remain constant compared to the existing scenario. Since the proposed development moves the HGV route away from the only noise sensitive receptor of concern, it is considered that no adverse noise impact is likely at the nearest noise sensitive receptor as a result of the proposed development, and a beneficial reduction in noise impact may arise due to the increased distance of the HGV access road.

69. The applicant proposes a number of noise control measures to manage and control noise arising from the operation of HGVs using the access road and concrete slab area. These measures could be covered by a condition and include:
- Provide sufficient and clearly visible signage for HGV drivers, to indicate speed limits, entry and exit policy (i.e. using the new HGV route), and to ensure proper use of the turning circle to minimise the risk of vehicle alert signals being audible when reversing; and
 - Introduce a policy that HGV vehicle engines should be turned off as far as reasonably practicable when laying down deliveries, visible signage should be installed to indicate this policy.
70. The applicant also states in their Planning Statement that noise during construction can be managed through a Construction and Environment Management Plan and I recommend a planning condition to secure this. It is also noted that the applicant intends to limit access via the HGV route to between 07.30 to 2000 hours by use of locked gates outside of these hours. Again this can be secured via condition.
71. The applicant does not provide details of any additional noise modelling exercise to support their noise assessment as in their view it is not warranted given their conclusions of no adverse noise impact at the nearest noise sensitive receptor as a result of the proposed development and the likelihood of a beneficial reduction in noise impact when compared to the current situation because of the proposal.
72. The applicant's view of the noise impacts of the proposal and the requirement for a noise modelling exercise has however attracted an objection as summarised in paragraph 29 above.
73. The local resident considers that a noise modelling exercise is needed. The resident considers that the present use of the existing concrete slab causes unacceptable nuisance and the proposed use of the existing concrete slab and the HGV proposal and proposed concrete apron would in their view also cause unacceptable nuisance. The resident considers that the application contains false information in relation to the existing use of the concrete pad and that false information has been used as a basis for the consultation that is referred to in the Noise Assessment Technical Note with MBC

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MKSS Environment Heath team and that this resulted in MKSS Environmental team agreeing a methodology on the basis of the information presented.

74. However, we have not received objection from MBC (who also have a remit in relation to the lawfulness of the use and the planning status of the existing concrete slab) with regard to the proposal. Amendments to the methodology used by the applicant in this proposal have not been requested by MBC. The County Council technical advice from Amey Noise also does not raise objection on the basis of the application information provided. MBC have confirmed via the Lawful Development Certificate that the use of the existing concrete slab is lawful. The retrospective application for retention of the concrete slab to MBC has been granted permission subject to conditions relating to submission of a management plan which includes measures to reduce the potential for noise disturbance from the existing concrete slab, including the timing of deliveries, the use of audible reversing alarms, idling vehicle engines and appropriate mitigation measures. It also includes an acoustic survey requirement to demonstrate whether an acoustic barrier is required and further details of such a barrier to be submitted to MBC if required. These requirements relate to the existing concrete slab only. The resident considers that the existing concrete pad should not be used until a satisfactory noise management plan is in place. This is a matter for MBC. The resident also considers that the construction of an acoustic barrier is unlikely to be practical. This is also a matter for MBC should the acoustic survey demonstrate that one would be required.
75. In the event that MBC in the future require removal of the existing concrete slab, this would affect the 21/503982 permission and not the 21/500139/LDCEX decision for the use. A decision regarding the proposal before you cannot be indefinitely delayed pending confirmation of compliance with conditions relating to the existing concrete pad by MBC as decisions need to be made without delay and the conditions do not require immediate compliance. The proposed HGV route would still be needed as discussed above.
76. The local resident considers that there would be noise nuisance to neighbouring property as a result of the proposed HGV route which would serve the existing concrete slab. No objections have been received from MBC on these grounds. Concerns about noise and the use of the existing concrete slab are addressed in the MBC decision and measures to address noise arising from this proposal have been discussed above and can be secured by condition.
77. The local resident also considers that there would be a very large increase of use. As discussed above the use would be by the existing shopping village. Whether or not this HGV service route would or could in the future be used as part of any other future development that may come forward within the Newnham Court site allocation policy is not known and any development proposals would need to be assessed by the relevant planning authority at the time. This would be based on an assessment of the planning information presented and be decided on the planning merits at the time.
78. On this basis, I am satisfied that the proposed development is appropriate for its location in the Maidstone urban area, in an area which is allocated for further development within the Development Plan and that the proposal does not give rise to significant adverse noise impacts on health and the quality of life. The proposal is not located within an area which has been identified as tranquil and which is relatively undisturbed by noise, nor is it in an area which is recognised for its recreational and amenity value.

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Biodiversity and natural environment impacts

79. The NPPF seeks to conserve and enhance the natural environment in relation to protecting and enhancing valued landscapes, sites of biodiversity value and soils in a manner commensurate with their status and quality. It seeks to minimise impacts on and support net gains for biodiversity and prevent new or existing development from being adversely affected by unacceptable levels of soil, air, water or noise pollution.
80. Local plan policies DM1 and DM3 relate to biodiversity matters and development. The site is not located within any statutory protected or non-statutory nature conservation sites although it is located within a risk zone for a SSSI. The site is within an area of grade 2/3 agricultural land (best and most versatile) however given the limited size of the application area and that the site has already been allocated for development the impact to agricultural land is considered in policy terms to be acceptable.
81. A comment has been made that the proposal will directly destroy grassland and fragment the ecological integrity of the application site. The existing site currently includes amenity grassland and hedgerow with trees habitats. The applicant has submitted an Ecology Addendum Technical Note with this application to extend the assessment of ecological constraints already carried out and forming part of the approved scheme (MA/20/500047). The report concludes that no designated sites would be affected by the proposed development and no further protected species or habitat surveys are recommended. The Technical Note states that to prevent breeding birds being a constraint to the works, removal of trees and dense or introduced scrub should be carried out outside of the breeding season (March to July) and where nesting birds are a constraint to development, a suitably experienced ecologist should oversee the works and check vegetation prior to removal if this is undertaken during the breeding bird season. The report states that construction work should not be undertaken at night so as to prevent disturbance of badgers and bats that may be present in the works area and temporary badger exclusion fencing should be installed adjacent to habitats used by badgers to prevent them from entering the works area.
82. Our consultation with Natural England did not give rise to objection to the proposal. Natural England comment that based on the information submitted the proposed development would not have significant adverse impacts on statutory protected nature conservation sites and draw attention to the duty of the authority to have regard to conserving biodiversity protected species, local sites, priority habitats and species, ancient woodland and ancient and veteran trees, protected and valued landscapes, best and most versatile agricultural land and soils, access and recreation, rights of way and access, and environmental enhancement as part of our decision making.
83. Our consultation with Kent County Council Ecological Advice Service has not given rise to any objection. The applicant has confirmed that lighting along the proposed HGV route would be configured to switch off between the hours of 11pm and 6am the following day and so there are periods when the lighting levels would be inactive.
84. With regard to ancient woodland and veteran trees, the application site is approximately 180m from ancient and semi-natural woodland located to the north east at Horish Wood and Popes Wood further to the east and approximately 290m from ancient woodland located at Lower Fullingpits Woods to the south west of the site. However, I consider

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that the proposed development is sufficiently separated from these locations to not have significantly adverse impacts to them and our consultation with the Ecology Advice Service has not given rise to objection or comment with regard to these matters. With reference to policy RMX1 (1) given the distance of this proposal from the ancient woodland, a landscape buffer to the northern and eastern boundaries of the site is not relevant to this proposal.

85. The proposal would however result in the loss of 3 trees category C trees from an area that MBC advise is covered by a Tree Preservation Area. Within the Tree Preservation Area, a number of Tree Protection Orders exist. The trees that would be removed are a relatively small number of low quality (category C) trees in a well-defined area in the current hedgerow to the north and south of an existing field gate. The application states that these trees are not mature and are not of high or moderate value. Whilst the trees are in an area covered by a Tree Preservation Area, they are not covered by the Tree Protection Orders. Given that MBC have not objected to the proposal subject to consideration of strategic landscaping, and that the site is allocated in the Local Plan for development I consider that compensatory planting can be provided within the scheme and that this will provide some mitigation for the loss of these trees, and this is discussed further below.
86. With regard to protected and valued landscapes, the proposal is located close to the Kent Downs AONB which is a nationally protected landscape and therefore is within this landscape setting whilst also being within the Maidstone Urban Area. The proposal is within the Wealden Greensand National Character Area; the Hollingbourne Vale West Kent Landscape Character Assessment Area and the Thurnham Vale (Grove Green and Weaving Fringes) Maidstone Landscape Character Assessment area. The application includes a Landscape Character Appraisal Technical Note which reviews the Landscape Character Assessment carried out for the approved scheme (MA/20/500047) and the Technical Note concludes that the proposal would sit sympathetically within the landscape and not be likely to have significant effects to the surrounding landscape including the setting of the AONB. The route does encroach on a small area of pastoral farmland to the east however the openness of the landscape would be retained and the setting of the AONB would not be significantly impacted.
87. The wider development allocation in the local plan policy RMX1 (1) design criteria requires mitigation of impact on the Kent Downs AONB and its setting through measures including landscaping, retention of existing planting and appropriate compensatory planting and use of low level lighting. I have received no comments on the proposal to our consultation with the Kent Downs AONB. The Ecology Advice Service in response to the initial consultation comments that they would encourage the applicant to either plant a replacement hedge or use a species mix that would benefit biodiversity such as a flowering lawn mix (if the grass needs to be kept short) within the landscape planting.
88. I have received comments from three interested parties regarding landscape matters given that the application prior to the amendments received in December 2021 did not contain any hedge or tree planting for screening. These comments draw attention to the location in the foreground of the AONB, and views towards the site from locations such as the Weaving Heath open space to the east of the site. Planning policy requirements in the paragraph 176 and 177 of the NPPF and policy SD3, SD8 and SD12 of the Kent Downs AONB Management Plan are also referred to in these comments.

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89. Paragraph 176 of the NPPF concerns the great weight that should be given to conserving landscapes and scenic beauty in Areas of Outstanding Natural Beauty, and development in the setting of these areas should be sensitively located and designed to avoid or minimise adverse impacts on the designated areas. Paragraph 177 concerns the consideration of major applications for development within the AONB, and the circumstances where permission should be refused for major development which should include assessment of any detrimental impact to landscape and the extent to which it can be moderated. The significance of the impact is relevant to such decisions for major development.
90. The Kent Downs AONB Management Plan is a material consideration. It does not form part of the development plan, however MBC Policy DM1 requires account to be taken of the Management Plan. Policy SD3 seeks to ensure that new development or changes to land use are opposed where they disregard or run counter to the primary purpose of the Kent Downs AONB. Policy SD8 seeks to ensure that proposals which negatively impact on the distinctive landform, landscape character, special characteristics and qualities, the setting and views to and from the AONB will be opposed unless they can be satisfactorily mitigated. Policy SD12 encourages transport and infrastructure schemes to avoid the Kent Downs AONB as far as practicable. Essential developments will be expected to fit unobtrusively into the landscape, respect landscape character, be mitigated by sympathetic landscape and design measures and provide environmental compensation by benefits to natural beauty elsewhere in the AONB. The Management Plan states that “proposals which would affect the setting of the AONB are not subject to the same level of constraint as those that would affect the AONB itself. The weight to be afforded to setting issues will depend on the significance of the impact. Matters such as size of proposals, their distance, incompatibility with their surroundings, movement, reflectivity and colour are likely to affect impact”
91. The application concerns a section of service route which is 110m long and which in itself would be regarded as a minor development proposal and the requirement is to consider the significance of the impact of the minor development proposal to the setting of the AONB, given that the main scheme has already been decided.
92. The application includes a route profile and cross section (included on page 45). The proposal includes a shallow cutting to the south and to the north of the service route and the changes in levels across the route can be seen to be marginal. The cuttings would bring the road to approximately 0.6m below the existing ground level although there are places where it would be less than this and places where the alignment would be very similar to the existing ground levels. The proposal, including the road, fencing, lighting and use would therefore be visible on the landscape and to localised views, including from New Cut Road and from Weaving Heath which is south of Bearsted Road and east of New Cut Road. These views also look toward the AONB. The applicant originally stated that there is not sufficient room within the proposed HGV site for hedge planting due to the location of proposed services (i.e. drainage and lighting utilities) to the east and the need to keep sight lines clear. However, in response to the comments set out above, the applicant has made changes to the location of the proposed services for drainage, moving them under the proposed service road instead of alongside it, in order to make space to include landscape planting in the application. Amendments to the application now include hedge planting to the east of the proposed road between it and the fence line to the east. The applicant was also able to reduce the number of trees that they proposed for removal from 13 to 3 as discussed earlier. The proposed native hedge

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planting would soften views towards the site and provide some mitigation for the proposal. The applicant has also changed the proposed seed mix from amenity grass mix to a flowering lawn mix.

93. The planning consideration is whether the proposal has a negative impact to the setting of the AONB and whether the impact is significant. As detailed in paragraph 86, the applicant has concluded in the Landscape Character Appraisal Technical Note the proposal would sit sympathetically within the landscape and not be likely to have significant impacts to the surrounding landscape including the setting of the AONB and the setting of the AONB would not be significantly impacted. The MBC Local Plan policy SP17 requires that proposals should not have a significant adverse impact on the settings of the Kent Downs AONB. Given the scale of the proposal and the planting now included within the amended scheme I do not consider the proposal would give rise to a significant adverse impact on the setting of the AONB that would warrant refusal of the proposal on these grounds given the need for the highway works as discussed above.
94. Maintenance of any planting can be required by condition. Our Ecological Advice Service did not raise any objection on the basis of requirements for net gain for biodiversity, given that the proposal was amended to include a flowering lawn mix and has since also been amended to include native hedge planting. The advice that the hedge/flowering lawn should be established within a year of the development being implemented can be required by condition should permission be granted.
95. The lighting proposed within the scheme is 3 columns in 3 locations to the east of the proposed service road. No details about the proposed column height or lighting design have been included within the application. I note that the approved scheme (MA/20/500047) also includes lighting and requires submission of full details of all street lighting, to include lux levels and hours of operation prior to the first operation of the service road in order to ensure that the potential impact of such lighting on local amenity and the local environment is minimised. I therefore consider it appropriate to also require this information by condition in relation to this proposal, including in relation to the exact positioning of lighting columns and minimising impacts to biodiversity. In relation to biodiversity matters, the lighting proposed needs to take account of potential impacts to bats and the applicant has clarified that the lighting would be switched off between the hours of 11pm and 6am to address this. The hours of lighting in relation to bats can be considered further at the time of submission of further lighting details, in order to ensure that the times that the lighting can be switched off are maximised as far as is possible and that where possible lighting is not left on unnecessarily when the gates are locked and the route is not in use. As discussed below, the lighting proposed also needs to take account of residential amenity in order to limit the impacts of light pollution from artificial light, although it should be noted that other lighting may already be present between the proposed site and nearby residential property.
96. The lighting would potentially be visible from New Cut Road in views towards the site, and it would be seen in the context of other lighting including that for the approved development MA/20/500047 and other development within the KIMS site and in the Maidstone Urban Area. I therefore consider that the extent of lighting proposed within the application to not be likely to adversely impact on the wider landscape setting given the location in the urban area and in the context of other nearby lighting, including that already proposed within MA/20/500047.

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97. Policy RMX1 (1) seeks to achieve design and layout criteria which includes provision of a landscape buffer to the northern and eastern boundaries of the site to protect ancient woodland and to both sides of an existing stream running north south through the site and landscape and visual impact assessment. In my view this particular proposal is sufficiently distant to the ancient woodland and an existing stream running north south through the allocated site so as not to require a landscape buffer. The already approved scheme would include native hedgerow and specimen tree planting as detailed in the approved scheme landscape planting drawings as landscape mitigation. The approved scheme (MA/20/500047) also requires submission of details of a native hedge and tree planting for the east side of the service road section within the MA/20/500047 development to be submitted in addition to the approved landscaping details provided within the MA/20/500047 application. These additional details have not yet been submitted. The applicant is also now proposing new planting to the east of the proposed service route.
98. Given the information within the Landscape Character Technical Note and that there is also no objection from MBC subject to consideration of strategic landscaping, nor the AONB Group and in the context of other development already approved and/or allocated at this location, I consider that the impacts to the landscape including the protected landscape of the AONB are not so significant as to warrant refusal. The proposal would be visible in places and be partially screened by additional planting to the east, within the proposed fence line. The proposal is not likely to have significant impacts to the AONB and landscape impacts are likely to be localised and viewed in the context of the landscape already influenced by busy transport corridors and development at the shopping village and the KIMS.
99. Furthermore, given that there is no objection from Natural England nor from the County Council Ecological Advice Service, I am satisfied that this proposal does not give rise to significant harm to biodiversity that cannot be adequately mitigated and that there are no grounds for refusal in relation to these matters and that the proposal would not have an adverse effect on any SSSIs and would not lead to unacceptable impacts to irreplaceable habitats (such as ancient woodland and ancient or veteran trees). Opportunities to improve biodiversity have been addressed by inclusion of a flowering lawn mixture and native hedgerow.
100. As discussed above given the air quality and noise technical advice and that MBC do not object to the proposal, I consider that dust, air quality and noise impacts would not justify refusal of the proposal in relation to environmental impacts.

Water environment, drainage, ground conditions and contamination and flood risk

101. The NPPF requires consideration of meeting the challenge of climate change, flooding and guarding against flood risk (paragraphs 159, 167 and 168) and of conserving and enhancing the natural environment in relation to preventing unacceptable levels of soil, water pollution or land instability and seeks to ensure new development is appropriate for its location (paragraph 174, 183, 185). Local Plan policy DM 3 seeks to control pollution to protect ground and surface waters where necessary and mitigate against the deterioration of water bodies and adverse impacts on Groundwater Source Protection Zones.

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102. The nearest surface water is located at the River Len approximately 190m east of the proposed development site. The site is approximately 200m from a drinking water protected area (surface water) (a non-statutory designation which applies to areas where water abstracted needs to be protected to ensure that it is not at risk of pollution) and is within a safeguarding zone for drinking water. The Environment Agency advise that the site is located over a Principal Aquifer and within a Groundwater Source Protection Zone 3.
103. The application includes a Phase 1 Preliminary Risk Assessment that has been submitted in relation to ground contamination to identify and evaluate potential ground contamination constraints relating to the site and to provide recommendations on measures that could be adopted to address these. The report recommends a further unexploded ordnance watching brief is undertaken during any intrusive works on site and a ground investigation is recommended to include a risk assessment of possible contamination linkages and remedial measures if required and suggests that a condition can be used to secure these details.
104. I consider that conditions and informatives can be used to address the Environment Agency requirements and advice as set out above. With the inclusion of such conditions and informatives, I consider that the NPPF requirements relating to risks of pollution to water and policy DM 3 requirements which seek to control pollution to protect ground and surface waters are addressed.
105. The application states that the site is located in an area of low risk of flooding in a flood risk 1 area. The application includes a Flood Risk Assessment Technical Note. The proposal would generate an additional 980m² hardsurfaced area and it is proposed that the surface water run off generated from the proposal would discharge to the same drainage system as for the approved scheme (MA/20/500047) and via a series of trapped road gullies, catchpit and interceptor to soakaway 1 located within the approved scheme and calculations have been provided for this. The application states that the new service road and HGV road and new surface water drainage network would be privately owned and maintained by the landowner.
106. A comment has been received relating to the design of any surface water drainage to include a 'wildlife friendly' design to prevent reptiles, amphibians and other wildlife perishing within the drains. The proposal included a details of the drainage systems proposed which are consistent with and direct water to the soakaway located within the approved scheme. The ecological advice received did not raise concern in relation to this matter nor did Kent County Council Flood and Water Management.
107. Kent County Council Flood and Water Management raise no objection to the consultation proposal and comment that the submitted information shows that the soakaway is designed to accommodate storms up to and including the 100 year event plus 40% climate change with no apparent flooding and that details of the soakaway have been discharged. The team request that the information already submitted and approved be updated to include the Technical Note submitted with this application and I consider that this can be explained in an Informative to any decision. The discharge of details in relation to the approved scheme MA/20/500047 was subject to an informative containing the Environment Agency advice in relation to soakaways and risks to controlled waters. Given that there is no objection from the Flood and Water

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Management Team in relation to flood and water management matters I consider that the proposal meets the NPPF and local plan policy requirements in relation to flood and water management matters subject to the matters raised by the Environment Agency which can be addressed by condition. During the course of the application, amendments to the location of the drainage systems moving them to beneath the service road have been made in order to create space for planting to the east of the service road and no concerns have been raised as a result of this.

108. To summarise, given no objections from any of the statutory consultees concerning the water environment, drainage, ground conditions and contamination and flood risk matters I conclude that the proposal is acceptable with the inclusion of planning conditions.

Heritage and Archaeology

109. The proposal is located in an Area of Archaeological Potential and the application includes details of an addendum to the historic environment desk based assessment which was submitted with the approved scheme (MA/20/500047). This concludes that the site has limited archaeological potential for significant remains. No further work is being recommended by the applicant to add to the written scheme of investigation for the main scheme for the proposed work. No comments have been received as a result of our consultation with the Archaeological Service.
110. The site is located approximately 70m from a grade II listed building at Newnham Court Inn. No comments have been received from the Heritage Service with regard to the proposal and there has been no objection from MBC. Given the distance between this proposal and the listed building and within the context of other approved works which would occur between the listed building and this proposal and the site allocation for development in the local plan, I consider that the proposal would be acceptable in heritage terms.

Amenity impacts

111. The proposal may give rise to some temporary impacts during the construction period relating to noise and dust and I consider that these can be addressed via the construction environment management plan which can be required by condition, and which can include details of proposed construction hours and measures to address dust, noise and vibration during construction.
112. The noise and air quality impacts of the proposal once built are addressed above and are considered to be acceptable given that any noise impacts from use of the existing concrete slab have been addressed as part of the decision making for the retrospective application by Maidstone Borough Council. The use of the existing concrete area for loading and unloading is already decided by the Borough Council as being lawful and any noise matters relating to the use of the existing concrete pad and alleged nuisance in relation to it would be for the Borough Council to respond to. The location of the existing concrete slab is a matter for MBC and movements to and from the existing concrete slab via fork lift taking deliveries from the existing concrete slab to respective units would continue via the existing route within the shopping village and are a matter for MBC, as is the existing footpath link between the shopping village and the KIMS site.

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113. With regard to lighting considerations, this has been discussed above in relation to impacts to biodiversity and landscapes. The proposal includes 3 lighting columns and it is noted that the approved scheme (MA/20/500047) also includes lighting. The location of 1 of the nearest lighting column is approximately 50m to the south east of the boundary with residential property and approximately 98m from the rear building facade, separated by the proposed concrete apron and existing concrete slab, an access road and the pedestrian route between KIMS and the Shopping Village and planting beyond. I consider that a condition can be used to require submission of additional information of lighting before installation and that the lighting should have regard to the location of nearby residential property and be directed onto the location where and when lighting is needed.
114. MBC have not raised concerns with regard to these matters and in respect of noise and air quality our own technical advisors have not raised concern.

Mineral Safeguarding

115. The proposed site location falls within a mineral safeguarding zone for silica sand construction sandstone. Kent County Council Minerals and Waste Local Plan Team advise that the application site is of a size that would be entirely unlikely to be viable or practicable for any prior extraction and there are no minerals or waste safeguarding objections to the proposal.

Other matters

116. The relocation of the southern section of agricultural barn to the north is unlikely to give rise to any additional adverse impacts and is acceptable in this location. The relocation of two storage containers currently located and used at the site which would need to be moved to make way for the proposed HGV route and proposed concrete apron works, to a new location is also considered to be acceptable on the temporary 3 year basis proposed within the application. A condition can require removal from the site at the end of the temporary period.
117. This application is related to the Lawful Development Certificate 21/500139/LDCEX issued by MBC only in so far as that part of the site would be used by the proposed HGV route to achieve the turning circle and because the route leads to this existing use. The currently approved scheme (MA/20/500047) originally included this part of the site (but not the use) within the red line area however this was then amended and removed from the original approved scheme as it came to light that the existing concrete slab did not have planning permission for the use. This led to the applicant seeking to regularise the matter with MBC via an application to them which was subsequently approved. A further application for a proposed HGV route was then made to KCC (KCC/MA/0086/2021). However, this was later withdrawn as a result of amendments including the relocation of the barn and containers and a new application (the application before you) submitted and readvertised. This was in order procedurally given the nature of the amendments. As set out above, a further application relating to the existing concrete slab was also made by the landowner to MBC relating to the retrospective retention of the concrete slab. These are circumstances which have arisen and have been appropriately addressed in planning terms and the number of applications made is not material to decision making for this proposal.

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118. The local resident objecting to the application, is concerned that the lawful development application made to Maidstone Borough Council (MBC) for 21/500139/LDCEX has been used to “validate” the application for the HGV route. In the resident’s view the applicant has wrongly applied for permission for the HGV route to service a “good distribution area”. The planning application has been assessed according to the planning practice requirements for planning applications. The application made to MBC for 21/500139/LDCEX has determined that the use of the existing concrete slab is lawful. The determination of this application cannot be used to revisit or question the grant of a lawful development application as the proper process would have been to challenge the decision at the time it was granted. The applicant presented the details of this within the planning application made to the County Planning Authority and referred also to the further application for the operational development of the concrete slab to MBC. As discussed in paragraph 31, and as requested by MBC in their consultation response, this planning application needs to be decided in accordance with the development plan unless other material planning considerations indicate otherwise. I consider that given the HGV link is intended to service the use of the existing concrete slab and is reliant on the concrete slab which is outside of the proposal permission area, appropriate permission for the use and operational development should first be in place for the existing concrete slab before a determination of the planning application is made. Both of these permissions from MBC are in place. MBC have not raised objection to this proposal. The application has not in planning terms been “wrongly” made and it is possible for a number of applications to be made by the same applicant or agent at the same time to either or both planning authorities.
119. The resident suggests that there is other land available that could be used for goods distribution further away from residential property. However, a decision needs to be made in relation to this proposal, which links to an existing use which has been granted permission.
120. The content of the application has been described by the resident as inaccurate in places, particularly in relation to the historic use of the existing concrete slab. We have not received any adverse comments from the statutory consultees with regard to the content in respect of the historic use described beyond the red line boundary of this application which would in any event be a matter for MBC. MBC have decided the lawful development certificate 21/500139/LDCEX relating to the use of the existing concrete slab. The MBC view that the use is lawful is therefore material to the decision making and carries considerable weight in planning terms. Furthermore, MBC have granted permission for the retrospective retention of the existing concrete slab, subject to conditions. This is also material to decision making and carries considerable weight in planning terms.
121. The resident questions why KCC wishes to have permission for the HGV route and queries the use and appropriateness of government funding for the proposal. The need for the proposal is discussed above and is a consequence of the wider highway improvement scheme and the requirement to close off the existing access to the Newnham Court Shopping Village. The proposal accords with planning policy relating to the site allocation and in relation to the other matters as discussed above. The appropriateness of the use of government funding for the proposal is not a planning matter.

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122. As previously discussed, it is in order for KCC as applicant to make a planning application to KCC as the County Planning Authority for works that they or their representatives would be carrying out, and for this to be in relation to land not owned by KCC. In this case KCC would be arranging for contractors to undertake the Major Capital Project works on their behalf. These applications are decided in accordance with the development plan and material considerations just as they would be if they were made to the Borough Council as Local Planning Authority. Where a development falls within Regulation 3 of the 1992 General Regulations as in this case, there is no discretion to seek planning permission from the Borough Council. It is also in order in planning terms for KCC or their agent to apply to the Borough Council for permission for aspects of the development that do not require further works by KCC, on behalf of the landowner.

Conclusion

123. This is a minor development proposal that would form and only take place as part of a larger development scheme, part of which is already permitted. The application seeks planning consent for a 110m section of road and concrete apron for HGV traffic within the Newnham Court Shopping Village site. It is necessary for the wider Bearsted Road Improvement Works which the County Council is promoting as part of the Local Transport Plan. The scheme is needed to improve the arrangements for HGV access to the site. The proposal has given rise to a local objection which predominantly relates to its relationship with an existing concrete slab beyond the planning application boundary. The existing concrete slab would be used to achieve the turning head and circle for HGVs to enter and exit the site.
124. The objection in the main concerns the application process, the number of applications and the validity of the applications and concerns about noise and nuisance as a result of the development and the use of the existing concrete slab which the proposed HGV would link to. These matters are discussed above.
125. This proposal connects to the existing concrete slab and relies on it to achieve the turning circle for HGVs to enter and leave via the proposed route. MBC have issued a Lawful Development Certificate relating to the lawfulness of the use of the existing concrete slab. MBC have also granted permission for the retrospective retention of the concrete slab.
126. The proposal has also attracted comments relating to landscaping and the impact on the setting of the AONB. The applicant has responded to these comments with the inclusion of landscape planting within amendments to the scheme.
127. This application is considered to be acceptable in terms of need and location and impacts. Highway improvements are supported within the Local Plan allocation. There are no planning policy reasons to refuse the proposal as a result of the potential impacts of the proposal as discussed above when balanced against the wider benefits of the proposed development for improved HGV access as part of the wider scheme. The proposal accords with the general aims and objectives of the Development Plan Policies and given that there are no objections from the statutory and non-statutory consultees I recommend accordingly, subject to conditions.

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Recommendation

128. I RECOMMEND that PERMISSION BE GRANTED SUBJECT TO the imposition of conditions covering (amongst other matters) the following:

- The standard 3 year time limit;
- The development be carried out in accordance with the permitted details;
- Submission of a scheme to deal with the risks associated with contamination including a site investigation scheme and detailed assessment of the risk to receptors; an options appraisal and remediation strategy giving full details of the remediation measures required and how they would be undertaken and submission of a verification plan providing details of the data that would be collected to demonstrate that the works set out in the remediation strategy are complete and identifying any requirements for longer term monitoring of pollution linkages maintenance and arrangements for contingency action;
- Submission of a verification report demonstrating completion of the works set out in the approved remediation strategy;
- Measure to address contamination if it is found during development and has not previously been identified at the site;
- Measures recommended within the Phase 1 Preliminary Risk Assessment including an unexploded ordnance watching brief during any intrusive works on site and a ground investigation to include a risk assessment of possible contamination linkages and remedial measures if required;
- Infiltration of surface water drainage;
- Implementation of the recommended noise mitigation measures as set out in the Noise Assessment Technical Note;
- Submission of a construction environmental management plan prior to construction commencing, including details of hours of construction operation; details of any construction compound arrangements; dust and noise mitigation during construction;
- Submission of maintenance arrangements as part of a landscaping scheme;
- A requirement for the landscaping scheme to be implemented as approved and for the hedge/flowering lawn to be established within a year of the development being implemented;
- Submission of further details of proposed lighting, including hours of lighting use, which should have regard to the location of nearby residential property and biodiversity matters, including use of filters as appropriate and be directed onto the location where needed;
- Limitation of access to HGVs via the HGV route to between 07.30 to 2000 hours by use of locked gates outside of these hours;
- Implementation of the Ecological Addendum Technical Note ecological recommendations regarding the timing of works and ecological supervision and use of temporary badger exclusion fencing;
- Concerning tree protection measures for trees to be retained; and
- Removal of the 2 relocated containers within 3 years of the date of the decision.
- The proposed concrete apron to be used only for access and turning space and to be kept clear for that use and not used for loading or unloading of any goods.

129. I FURTHER RECOMMEND THAT THE Applicant BE ADVISED of the following Informatives relating to:

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- The Environment Agency advise that only clean uncontaminated water should drain directly to the surface water system and that there should be no discharge to land impacted by contamination or land previously identified as being contaminated and no discharge to made ground and no direct discharge to groundwater;
- The updating of drainage information previously submitted in relation to condition 10 (regarding details of the sustainable surface water drainage scheme) of MA/20/500047/RVAR to take account of the additional road area;
- That the works should only take place as part of the main scheme (MA/20/500047) by KCC and not separate to it; and
- The submission of the additional landscape planting requirements within the MA/20/500047 scheme.

Case Officer: Mrs H Mallett

Tel. no: 03000 411200

Background Documents: see section heading